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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,904	08/18/2003	Marcus Gerrard Lindsey	L1172	3198

7590 09/20/2004
Sanford Astor
18th Floor
10940 Wilshire Blvd.
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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,904

Applicant(s)

LINDSEY, MARCUS GERRARD

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 6-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/18/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 6-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5 August 2004. In a further phone conversation with Mr. Sanford Astor (Reg. No. 20,748) on 15 September 2004 it was determined that figures 1-2 contained two species in the form of two options of a grip spiraled wrapped (Claim 2) and a tubular grip (Claim 3). Mr. Astor elected the species of the grip being a tubular grip (Claim 3). As such claims 3 and 6-21 have been withdrawn from further consideration.

Specification

2. The disclosure is objected to because of the following informalities:
- a. On page 3 lines 17 it states that figure 11 is a cross-section view taken on lines 11-11 of figure 10. Figure 11 does not look like it should as shown for the line 11-11 in figure 10.
 - b. On page 3 lines 21 it states that figure 14 is a cross-section view taken on lines 14-14 of figure 13. Figure 14 does not look like it should as shown for the line 14-14 in figure 13.

Appropriate correction is required.

Drawings

3. The drawings are objected to because of the errors as stated in the paragraph above for figures 11 and 14. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (5,355,552) in view of Squadroni and Official Notice.

Huang discloses a handle in the form of a solid core (201, Figs. 22-26), a grip (205) attached to a handle (Figs. 22-26), a bladder (207) being air tight between a grip (205) and a handle (201), inflating the bladder to the desired size (Col. 6, Lns. 16-22), and a finger pump (209).

Huang lacks an air tight grip, a grip being tubular, and solid piece of material placed over a handle and sealed to a handle at a top and bottom of a grip. Squadroni discloses a grip (Fig. 2) with a portion of it being an inflated elastic (Claim 3) tube (Ref. No. 15, Figs. 1, 8-9) being air tight and surrounding a core (12). In view of the patent of Squadroni it would have been obvious to modify the implement of Huang to have an air tight grip, a grip being tubular, a grip being a solid piece of material placed over a handle and sealed to a handle at a top and bottom of a grip in order to simplify a grip by having fewer parts as not having an outer layer and a bladder.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (5,355,552) in view of Squadroni as applied to claims 1, 3, and 5 above, and further in view of Official Notice.

Huang lacks a grip being formed of rubber.

Squadroni discloses a grip (Fig. 2) with a portion of it being an inflated elastic material (Claim 3). The examiner makes Official Notice that a well known inflatable elastic material known is rubber. In view of the patent of Squadroni and the examiner's Official Notice, that it would have been obvious to modify the inflatable tubular grip of Huang to be made of rubber in order to utilize an inflatable elastic material used in the market place.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (703) 308-2712. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (703) 308-1513. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 16 September 2004


STEPHEN BLAU
PRIMARY EXAMINER